IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 20TH AUGUST 2007 / 29TH SRAVANA 1929

WP(C).No. 17563 of 2004(N)

AGAINST THE ORDER IN EP.297/2003 IN
OS.598/1996 of MUNSIFF COURT, PARAVUR
.....

PETITIONER:
---

1. K.K.SUBRAMANIAN, S/O. KRISHNAN,
AGED 65 YEARS, KARINGAPPARAMBIL,
PALATHURUTH MURI, CHENDAMANGALAM VILLAGE,
PARAVOOR TALUK.

2. GOURI, W/O. K.K.SUBRAMANIAN,
PALATHURUTH MURI, CHENDAMANGALAM VILLAGE,
PARAVOOR TALUK.

3. RAJESH S/O. K.K.SUBRAMANIAN,
KARINGAPPARAMBIL, PALATHURUTH MURI,
CHENDAMANGALAM VILLAGE, PARAVOOR TALUK.

BY ADV. SRI.P.L.DEVADAS
SRI.LIFFY P.FRANCIS

RESPONDENTS:

MADHAVAN S/O. KRISHNAN, AGED 71 YEARS,
KARINGAPARAMBIL, PALATHURUTH MURI,
CHENDAMANGALAM VILLAGE, PARAVOOR TALUK.

BY ADV. SRI.S.SHYAM
SRI.BOBBYMATHEW KOOTHATTUKULAM

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: TRUE COPY OF THE EXECUTION PETITION NO. 239/03 IN O.S. NO.598/96 FILED BY THE RESPONDENT.

EXT.P2: TRUE COPY OF THE OBJECTION FILED BY THE PETITIONERS DATED 11.03.2003.

/True Copy/

P.A to Judge.

M.N. KRISHNAN , J

==========

W.P.(C) NO. 17563 OF 2004

==========

Dated this the 20th day of August, 2007.

JUDGMENT

This writ petition is filed seeking to set aside the order of the Munsiff Court, North Paravoor whereby it ordered the delivery of the property in 2004. The parties are direct brothers. The decree was put in execution and the decree holder purchased the property and thereafter the sale was confirmed. No application under Order XXI Rule 89 or Rule 90 was filed. The sale certificate was issued and in pursuance of the sale certificate delivery was ordered. At that time, it was submitted that there is a talk of settlement and even after passage of time also there was no settlement. The court ordered the delivery of the property. It is against that order, the writ petition is filed. The defeated brother still hopes mercy and sympathy from the successful brother. The learned counsel for the decree holder would submit that his client is not prepared to have a settlement. At this passage of time, this Court cannot compel anybody to settle the matter. But still can appeal to the parties, both being brothers to have an amicable settlement of the matter so that the blood relationship shall be retained and unnecessary hardship can be averted. In order

to enable the defeated brother to persuade his successful brother, I direct the court below not to deliver the property for a period of six weeks and if no settlement is arrived, the executing court is directed to deliver the property on 15th of October, 2007. The modality, if any, regarding the settlement has to be worked inter se between the parties and the court has nothing to do with it .

The writ petition is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

rv